

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98-76-000]

Edwin A. Cornell; Notice of Petition for Adjustment

June 1, 1998.

Take notice that on March 16, 1998, as supplemented on May 29, 1998, Edwin A. Cornell (Cornell), filed a petition, pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), for relief from making Kansas as valorem tax refunds, with interest, to Northern Natural Gas Company (Northern), with respect to: (1) Cornell's 1.0 percent working interest in the Bouziden oil and gas lease, that Cornell held from November 29, 1978 to August 27, 1984; and (2) Cornell's 0.76563 percent working interest in the McMinimy lease, that Cornell held from May 20, 1980 to August 27, 1984.¹ Absent the relief requested, Cornell will have to make the refunds, as required by the Commission's September 10, 1997 order in Docket No. RP97-369-000 *et al.*,² on remand from the D.C. Circuit Court of Appeals.³ That order directed First Sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. Cornell's petition is on file with the Commission and open to public inspection.

Cornell's March 16, petition consists of a March 10, 1998, letter stating that Cornell filed for Chapter 7 bankruptcy on March 7, 1986, and that such bankruptcy was discharged by the U.S. Bankruptcy Court for the District of Kansas on September 23, 1986. Cornell's May 29, supplement consists of a May 19, 1998 letter, in which Cornell explains (a) that he seeks to be relieved from paying the Kansas ad valorem tax refunds claimed by Hummon (\$572.24 in all), (b) that the court, in Cornell's August 27, 1984, divorce decree, entitled his ex-wife to all royalties, profits, proceeds, and interest in any mineral, oil, and/or gas leases, (c) that such divorce decree resulted in the loss of his business and subsequent bankruptcy, and (d) that, due to extended illness, he has been unable to work since 1992.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

David P. Boergers,

Acting Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-369-003, RP98-39-006, RP98-40-005, RP98-42-004, RP98-43-004, RP98-52-005, RP98-53-005 and RP98-54-006]

Public Service Company of Colorado, et al., Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, ANR Pipeline Company, Anadarko Gathering Company, Williams Natural Gas Company, KN Interstate Gas Transmission Company, and Colorado Interstate Gas Company; Notice of Motion for Waiver

June 1, 1998

Take notice that on May 19, 1998, Graham-Michaelis Corporation; Kansas Petroleum, Inc.; John W. LeBosquet; The Trees Oil Company; Pickrell Drilling Company; R.J. Patrick d/b/a/ R.J. Patrick Operating Company; Quinque Operating Company; Quinque Oil & Gas Producing Company; Lester Wilkonson; Kaiser-Francis Oil Company, CLX Energy, Inc.; Banks Oil Co.; Hummon Corporation; Osborn Heirs Company; Cabot Oil & Gas Corporation; Dorchester Hugoton, Ltd.; Ensign Oil & Gas Inc.; Helmerich & Payne, Inc.; Midgard Energy Company; and Pioneer Natural Resources USA, Inc. [jointly referred to herein as Producers], filed a motion pursuant to Rule 212 of the Commission's Rules of Practice and Procedure [18 CFR 385.212], where each request that the

Commission grant a waiver of the refund liability in these proceedings which is attributable to their respective royalties based on the enactment of Section 7 of Kansas House Bill No. 2419. In the alternative, the Producers request that the Commission grant generic relief of the same. In either case, the Producers request that the Commission direct the pipelines to return any refunds paid previously by the Producers pursuant to the Commission's prior orders which are attributable to such royalties, with interest at the Commission's prescribed rates.

The Producers state that the captioned proceedings involve the Commission's directives that first sellers refund Kansas *ad valorem* taxes paid over the period 1983 to 1988, based on the decision of the United States Court of Appeals for the District of Columbia Circuit in *Public Service Company of Colorado v. FERC*.¹ In addition, the Commission's general refund orders were issued in *Public Service Company of Colorado, et al.*, Docket No. RP97-369 (Commission Orders).² It is stated that the individual cases captioned above were commenced upon the filing by the individual pipelines of a Statement of Refund Due.

In June 1997 producers (including many submitting the motion) filed a request that the Commission waive royalties that were unrecoverable. The Producers state that in PSC of Colorado, the Commission recognized that there may be situations where producers are unable to collect refunds attributable to royalty interest owners.³ However, the Producers note that the Commission determined that it would not grant a generic waiver of uncollectible royalties, but rather would consider waiver of a refund on grounds of uncollectibility from royalty owners on a case-by-case basis, if a person seeking such relief can demonstrate that it attempted to collect the refund from the royalty owner and that the refund is uncollectible.⁴ The Producers contend that the Commission ruled that the standard for uncollectibility would be that set forth in *Wylee Petroleum Corporation*.⁵

The Producers state that on April 20, 1998, the Governor of Kansas signed into law House Bill No. 2419, which went into effect on April 30, 1998. They contend that the enactment of the House Bill makes refunds under the

¹ Cornell's May 29 supplement indicates that the wells on the Bouziden and McMinimy leases were operated by Hummon Corporation (Hummon).

² See 80 FERC ¶ 61,264 (1997); order denying rehearing issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

³ *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

⁴ 91 F.3d 1478 (1996), cert. denied, 65 USLW 3751 and 3754 (May 12, 1997) (PSC of Colorado).

⁵ 80 FERC ¶ 61,624 (1997) and 82 FERC ¶ 61,058 (1998).

⁶ 80 FERC ¶ 61,264 at 61,953 (1997).

⁷ Id.

⁸ 33 FERC ¶ 61,014 (1985).